



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

**DRAFT**

Date Introduced:	<b>02/18/03</b>	Bill No:	<b>AB 602</b>
Tax:	<b>Munition</b>	Author:	<b>Koretz</b>
Board Position:		Related Bills:	<b>AB 992 (Ridley-Thomas)</b>

**BILL SUMMARY**

This bill would impose a fee upon retailers at the rate of 10 cents for each munition, as defined, sold at retail in this state on or after January 1, 2004.

**ANALYSIS**

**Current Law**

Under existing law, a state and local sales and use tax is imposed on the sale or use of tangible personal property in this state, including munitions. Currently, the total combined sales and use tax rate is between 7 ¼ percent to 8 ½ percent, depending on the location in which the merchandise is sold. The Board does not collect any additional taxes or fees on the sale or use of munitions.

**Proposed Law**

This bill would add Chapter 2.8, commencing with Section 12330, to Title 2 of Part 4 of the Penal Code to impose a fee at a rate of 10 cents per munition on all munitions sold at retail in this state on or after January 1, 2004.

This bill would define "munition" to mean a projectile with its fuse, propelling charge, or primer fired from a weapon, or any of the individual components thereof. "Munition" does not include a BB or a pellet commonly used in an air rifle or pistol.

This bill would exempt any munition purchased by any peace officer required to carry a firearm while on duty, or by any governmental law enforcement agency employing that officer.

All amounts required to be paid would be paid to the Board in the form of remittances that are payable to the Board and are separate from the remittance of any other tax. The Board would be required to transmit those amounts to the Treasurer to be deposited in the State Treasury to the credit of the Trauma Center Fund, which this bill would create. The Trauma Center Fund would be continuously appropriated, without regard to fiscal years, as follows:

- To the Board for its cost of implementation and administration of the fee, and to pay refunds. The amount appropriated to the Board to cover the costs of implementation and administration may not exceed 10 percent of the total revenue deposited in the fund in the same fiscal year.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

- The balance to the Emergency Medical Services Authority for allocation to local emergency medical service agencies to support hospital emergency departments and certified trauma centers in delivering trauma care.

### Background

In 1993, two bills (AB 856, Tucker and SB 1129, Roberti) were introduced which would have imposed an additional sales tax on both firearms and ammunition. Both failed to advance out of their house of origin.

In 1994, SB 42X (Hughes) would have imposed a 10 percent sales tax on ammunition, while AB 24X (Eastin) and AB 3076 (Bates) proposed an excise tax of 15 cents per round of ammunition. All three bills failed to advance out of their house of origin.

Senate Constitutional Amendment 12 (Perata), introduced during the 2002 Legislative Session, would have placed a constitutional amendment before voters to impose a tax upon retailers at the rate of 5 cents for each munition sold at retail in this state. SCA 12 failed passage in the Senate Revenue and Taxation Committee.

### COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author and is intended to offset some of the costs associated with providing trauma care to those in need.
2. **Cost cap could be problematic.** This bill would create a new fee program to be administered by the Board. The provisions in this bill provide that the Board would be reimbursed for the costs of implementation and administration through the revenues generated by the fee. However, the reimbursement to the Board would be limited to an amount not to exceed 10 percent of the total amount of revenue deposited in the fund in the same fiscal year. Based on the current revenue estimate of \$72.8 million annually, the Board would be reimbursed for costs up to \$7.3 million annually. Since the implementation and administration costs have not been estimated by the Board, it is not known if the cost cap would provide the Board with sufficient funding to administer the fee.
3. **Munitions fee would be subject to sales and use tax.** Sales and use tax is due based on the gross receipts or sales price of tangible personal property in this state. The proposed munitions fee would not be specifically excluded from gross receipts or sales price, so it would be included in amount on which sales or use tax is computed.
4. **No use tax provisions.** This bill would impose a fee on the retail sale of munitions in this state. However, this bill does not contain a corresponding fee for the retail sale of munitions outside this state, but purchased for the storage, use or other consumption in this state. This would allow purchasers to avoid the proposed fee by buying munitions from out-of-state retailers through mail order or the Internet. It is recommended that the bill be amended to include a provision to impose the fee on any purchase of munitions for storage, use or other consumption in this state.

Even if the bill were amended to include a corresponding fee for munition purchases from out-of-state retailers, federal court rulings have limited the Board's authority to

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

be able to force out-of-state retailers to register with the Board and collect the use tax on behalf of California customers. The end result could be an increase in the amount of Internet and mail order purchases of munitions by California gun owners and fewer sales by California munition sellers. Consequently, less revenue would be generated from this program than anticipated. This could also lead to a reduction in sales tax revenues since the state would also lose the sales tax generated from in-state munition sales.

5. **Exemption.** This bill would allow an exemption from the fee for any munition purchased by a peace officer required to carry a firearm while on duty, or by any governmental law enforcement agency employing that officer. Based on the exemption provided, a law enforcement officer would be able to purchase munitions without payment of the fee for use while on duty as a law enforcement officer, for use in target practice, and for use while hunting. No restriction is placed on the exemption that the munitions purchased by a law enforcement officer must be for job related activities.
6. **Component parts of munitions.** This bill would impose a fee at a rate of 10 cents per munition sold at retail in this state. The term munition would include any of the individual components thereof. This would include gun powder, casings, projectiles and primer. Since the fee to be imposed is a flat rate of 10 cents per munition rather than a percentage of gross receipts, it is unclear what amount of fee would be imposed on the individual components.
7. **Bill could set a precedent.** Imposing varying fees on specific commodities complicates tax administration and could set a precedent for establishing multiple fees on other classes of tangible personal property. This results in increasing administrative costs to the Board and an increased record-keeping burden on fee payers.
8. **This bill could complicate retailers records and reporting.** Munition retailers already must collect and remit sales and use tax on the retail sale of munitions in California. Munition retailers most likely sell other tangible personal property subject to sales and use tax. Adding an additional fee that would be due on the sale of munitions would require retailers to keep track of munition sales separately from other sales of tangible personal property. Additionally, since the proposed fee is a fee of 10 cents per munition, rather than a percentage of gross receipts like the sales tax, reporting errors by munition retailers are likely to occur.
9. **Related Legislation.** Assembly Bill 992 (Ridley-Thomas) contains the same provisions as this bill.

## **COST ESTIMATE**

The Board would incur non-absorbable costs to adequately develop and administer a new fee program. These costs would include identifying and registering fee payers, developing computer programs, mailing and processing returns and payments, conducting audits, developing regulations, training staff, and answering inquiries from the public. This bill does, however, limit the Board's cost reimbursements to 10% of the

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

amounts deposited into the Trauma Center Fund. A cost estimate of this workload is pending.

## REVENUE ESTIMATE

### Background, Methodology, and Assumptions

This bill would place a \$0.10 per munition fee on each munition or component part thereof sold at retail in this state. The sale of munitions to law enforcement is exempt from the proposed fee. According to industry representatives, munitions sold in the state of California fall into three general subcategories: 22 caliber rounds, pistol and rifle rounds, and shotgun rounds. Each subcategory constitutes a 50 percent, 25 percent, and 25 percent market share respectively. The estimated costs associated with those subcategories are \$1.00, \$10.50, and \$12.50 per 50 rounds respectively. The weighted average cost per 50 munitions is \$6.25  $[(.5 \times \$1.00) + (.25 \times \$10.50) + (.25 \times \$12.50)]$ .

According to the National Sporting Goods Association, in 2000 the total expenditure on munitions in the US was \$806.5 million. Since California comprises 12 percent of the US population, the expenditures on munitions in the state are estimated to be \$96.8 million. The weighted average cost of 50 rounds was estimated to be \$6.25. Therefore, the total number of munitions purchased in the state is estimated to be 774.4 million  $[(\$96.8 \text{ million} / \$6.25) \times 50]$ .

Law enforcement agencies in the state use munitions in varying amounts. A survey of some of those agencies determined that the estimated average expenditure by law enforcement amounted to \$9.7 million. Law enforcement agencies do not use 22 caliber rounds. The estimated cost per 50 rounds to law enforcement agencies was \$10.50 because the majority of the rounds purchased were handgun rounds. The estimated total munitions purchased by law enforcement was 46.2 million  $[(\$9.7 \text{ million} / \$10.50) \times 50]$ .

The total number of munitions that qualify under this bill is estimated to be 728.2 million (774.4 million munitions – 46.2 million munitions).

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

**Revenue Summary**

The revenue generated by imposing a \$0.10 fee per munition is estimated to be:

	<u>Munitions</u>	<u>Revenue</u>
Fee (\$0.10)	728.2 million	<u>\$72.8 million</u>

The revenue gain from an additional \$72.8 million subject to the sales and use tax is estimated to be:

	<u>Revenue</u>
State Gain (5.00%)	\$ 3.6 million
Local Gain (2.25%)	\$ 1.6 million
Special District Gain (0.67%)	<u>\$ .5 million</u>
Total Gain	<u>\$ 5.7 million</u>

Analysis prepared by:	Bradley Miller	916-445-6662	03/25/03
-----------------------	----------------	--------------	----------

Revenue estimate by:	Dave Hayes	916-445-0840
----------------------	------------	--------------

Contact:	Margaret S. Shedd	916-322-2376
----------	-------------------	--------------

ls

0602-1bm.doc

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*